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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/559,347	04/27/2000	Qixu David Chen	146712000400	2901

25227 7590 06/09/2003

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EXAMINER
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BERNATZ, KEVIN M

ART UNIT	PAPER NUMBER
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1773

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**Commissioner for Patents**

In response to the query by the Board of Patent Appeals, the following is a clarification of the two issues raised by the Board in patent application 09/559,347.

The Board of Patent Appeals has asked "for clarification and written notification to appellants regarding the pertinence of the Huang reference listed on page 4 of the Examiner's Answer mailed February 26, 2003 (Paper No. 25)". In answer to this query, the Huang reference referred to above was previously cited in the interview summary mailed to appellants on September 27, 2002 (Paper No. 19) solely to support the Examiner's position taken when considering the declaration submitted by Dr. Ross (Paper No. 18). The Huang reference was /not/ relied upon in any rejection of record and was only cited in the Examiner's Answer because the Examiner deemed that it was directly applicable to the Ross declaration (i.e. "Furthermore, the Examiner cites the related case Huang et al. (U.S. Patent No. 6,416,881 B1: Figure 7) which clearly shows that the C and lubricant layer have an impact on ion migration (in '881, Co and Ni ions" - Paper No. 19, 5<sup>th</sup> Paragraph of 'Continuation of 5.').

The Board of Patent Appeals has also asked "for clarification and written notification to appellants regarding the claims involved in the rejection of "claims 9 and 19 under 35 U.S. C. 103(a) as being unpatentable over Ross et al. ('997) in view of Starke et al. and Taguchi et al. as applied above, and further in view of appellants' admissions". The Examiner notes that the inclusion of claim 19 in the basis for this rejection was a typographical error and that only claim 9 should have been included as being rejected.

Paul Thibodeau  
Supervisory Patent Examiner  
Technology Center 1700

KMB  
6/5/03